

111TH CONGRESS
2D SESSION

H. R. 5263

To amend the Internal Revenue Code of 1986 to provide a 5 percent maximum rate of tax on gain from the sale or exchange of depreciable real property by individuals.

IN THE HOUSE OF REPRESENTATIVES

MAY 11, 2010

Mr. YARMUTH introduced the following bill; which was referred to the
Committee on Ways and Means

A BILL

To amend the Internal Revenue Code of 1986 to provide a 5 percent maximum rate of tax on gain from the sale or exchange of depreciable real property by individuals.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Real Estate Invest-
5 ment Incentive Act of 2010”.

6 **SEC. 2. 5 PERCENT MAXIMUM RATE OF TAX ON DEPRE-**
7 **CIABLE REAL PROPERTY.**

8 (a) REGULAR TAX.—

(1) IN GENERAL.—Subparagraph (C) of section 1(h)(1) of the Internal Revenue Code of 1986 is amended to read as follows:

“(C) with respect to the amount of adjusted net capital gain (or, if less, taxable income) in excess of the amount on which a tax is determined under subparagraph (B)—

“(i) 5 percent of the lesser of such excess or the net depreciable 2010 real property gain, and

“(ii) 15 percent of the remainder of such excess (if any);”.

(2) NET DEPRECIABLE 2010 REAL PROPERTY GAIN.—Subsection (h) of section 1 of such Code is amended by adding at the end the following new paragraphs:

“(12) NET DEPRECIABLE 2010 REAL PROPERTY GAIN.—For purposes of this subsection, the term ‘net depreciable 2010 real property gain’ means the lesser of—

“(A) net capital gain determined by taking into account only gains and losses from the sale or exchange of depreciable real property first placed in service by the taxpayer after the date

1 of the enactment of this paragraph and before
2 January 1, 2011, or

3 “(B) net capital gain.

4 For purposes of the preceding sentence, net capital
5 gain shall be determined without regard to the
6 amount of long-term capital gain (not otherwise
7 treated as ordinary income) which would be treated
8 as ordinary income if section 1250(b)(1) included all
9 depreciation and the applicable percentage under
10 section 1250(a) were 100 percent.

11 “(13) DEPRECIABLE REAL PROPERTY.—For
12 purposes of this subsection, the term ‘depreciable
13 real property’ means section 1250 property (as de-
14 fined in section 1250(c)) other than residential rent-
15 al property which is part of a building with fewer
16 than 2 residential rental units.”.

17 (b) MINIMUM TAX.—Subparagraph (C) of section
18 55(b)(3) of such Code is amended to read as follows:

19 “(C) with respect to the amount of ad-
20 justed net capital gain (or, if less, taxable ex-
21 cess) in excess of the amount on which a tax is
22 determined under subparagraph (B)—

23 “(i) 5 percent of the lesser of such ex-
24 cess or the net depreciable 2010 real prop-
25 erty gain, and

1 “(ii) 15 percent of the remainder of
2 such excess (if any);”.

3 (c) EFFECTIVE DATE.—The amendments made by
4 this section shall apply to taxable years ending after the
5 date of the enactment of this Act.

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